

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF TEXAS**  
**MARSHALL DIVISION**


IVAN A. CANTU,	§	
Petitioner,	§	
v.	§	No. 2:06cv166
RICK THALER, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
Respondent.	§	

**ORDER DENYING AS MOOT AMENDED MOTION TO STAY BRIEFING SCHEDULE**

This matter comes before the court on Petitioner Ivan A. Cantu's amended motion for stay of briefing schedule pending a ruling by the Fifth Circuit Court of Appeals on the petition for rehearing *en banc* in *Gates v. Thaler* (document # 46) filed on August 2, 2012. However, during the pendency of this motion to stay briefing, the parties have briefed the issues. Therefore, the motion to stay the briefing schedule is DENIED as moot.

The issue in dispute in this case is whether the rule announced in *Martinez v. Ryan*, 566 U.S. \_\_\_, 132 S.Ct. 1309 (2012), is applicable in Texas. Because it appears that this issue will be addressed by the Supreme Court of the United States in *Trevino v. Thaler*, 568 U.S. \_\_\_, 133 S.Ct. 524 (2012), the court will delay a ruling in this case until the Supreme Court decides the *Trevino* case.

**SIGNED this the 19th day of March, 2013.**

  
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RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE